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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

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8 PAUL SCOTT KLEIN,)

9 Plaintiff(s),)

10 vs.)

11 FRED TOCCO, *et al.*,)

12 Defendant(s).)
13 _____)

2:06-cv-0494-RLH-RJJ

ORDER
(Motion to Dismiss-#59)

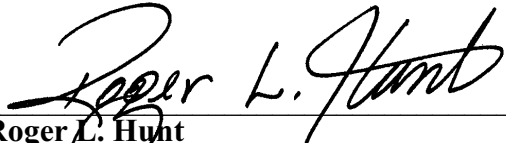
14 Before the Court is Plaintiff's **Motion to Voluntarily Dismiss the Complaint**
15 **Without Prejudice** (#59, filed May 14, 2010). Inasmuch as Plaintiff has failed to properly serve
16 the defendants for four years, no response is anticipated and the Court will rule without delay.

17 This case was filed April 20, 2006, although the Complaint was not officially filed
18 until May 10, 2006. Plaintiff failed to have the named defendants properly served. His efforts to
19 obtain temporary restraining orders, orders to show cause, and defaults against the unserved
20 defendants were refused. He appealed this Court's decisions to the Circuit Court of Appeals, but his
21 appeal was denied as without jurisdiction.

22 Failing to serve the Defendants for four years, without excuse, violates Fed. R. Civ.
23 P. 4(m). Failing to prosecute this lawsuit for nearly two years violates Rule 41(b). Moreover,
24 Plaintiff now moves for dismissal, albeit without prejudice. Under the circumstances, and for the
25 additional reason that the statute of limitations has run on Plaintiff's claims, the complaint will be
26 dismissed with prejudice.

1 IT IS THEREFORE ORDERED that Plaintiff's Motion to Dismiss (#59) is granted,
2 but it is dismissed with prejudice.

3 Dated: May 20, 2010.

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6 **Roger L. Hunt**
7 **Chief United States District Judge**
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